IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Crl.MC.No. 244 of 2004()

MC.5/2004 of THE SUB DIVISIONAL MAGISTRATE, KOLLAM.

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PETITIONER: B PARTY 1 TO 5.

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1. ARAVINDAKASHAN, S/O.GOPALAN,
   PREETHA BHAVAN, NADUVATHU CEHRRY,
   THEKKUMBHAGOM.

2. GOPINATHAN, GODHANDHA VILASOM,
   NADUVATHCHERRY, THEKKUMBHAGOM.

3. DHARMAPALAN, S/O.NANU,
   MONUR THEKKETHIL VEEDU,
   NADUVATHUCHERRY, THEKKUMBHAGOM.

4. KARUNAKARAN SHAJI BABU,
   SHYLAJA MANDIRAM, NADUVATHUCHERRY,
   THEKKUMBHAGOM.

5. VASANTHA RAJAN,
   S/O.PARAMU, SAVITHRI NIVAS,
   MALI BHAGOM MURI, THEKKUMBHAGOM.

BY ADV. SRI.V.PREMCHAND

RESPONDENTS: A PARTY 1 TO 8 & STATE.

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1. THANKRAJ, S/O.THANKAPPAN,
   PONNODIYIL KIZHAKKETHIL VEEDU,
   NADUVATHUCHERRY, THEKKUMBHAGOM.

2. NATARAJAN, S/O.MADHAVA PANICKER,
   KUTTAMATHU VADAKETHIL, NADUVATHUCHERRY,
   THEKKUMBHAGOM.

3. VIJAYAN, S/O.PAPPU,
   VIJAYA VILASOM, NADUVATHUCHERRY,
   THEKKUMBHAGOM.

4. SUDHAKARAN, S/O.VASU,
SREEKANTESWARAM PUTHUVAL VEEDU,
NADUVATHUCHERRY, THEKKUMBHAGOM.

5. SHA NARAYANANAN
S/O.NARAYANAN, SHAJI BHAVANAM, NADUVATHU CHERRY,
THEKKUMBHAGOM.

6. MANILAL, S/O.RAVEENDRAN,
THAZHATHETHIL MEKKU VEEDU,
NADUVATHU CHERRY, THEKKUMBHAGOM.

7. JAYARAJAN, S/O.SUKUMARAN NAYAR,
SUKUMARANA MANDIRAM, NADUVATHU CHERRY,
THEKKUMBHAGOM.

8. RAMARAJU, S/O.SIVANANDAN,
RAJ BHAVAN, NADUVATHUCHERRY,
THEKKUMBHAGOM.

9. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR
PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 30/01/2007, ALONG WITH CRMC NO. 436 OF 2004 WPC NO. 26796 OF 2006 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 244 & 436 OF 2004 &
W.P.(C) NO.26796 of 2006-M

Dated this the 30th day of January, 2007

ORDER

In all these three proceedings, the order dated 19/1/2004 passed by the Sub Divisional Magistrate, Kollam, in M.C.No. 5/04 is challenged. The `B' party in that proceedings has challenged the order in Crl.M.C.No.244/04. The `A' party has challenged the very same order in Crl.M.C.No.436/04. Long later, a person who is not a party to M.C.No.5/04 has challenged the said order in W.P.(c) No.26796/06. He has made a further prayer that proper election may be conducted and the administration of Sree Guhanandapuram Devaswom in Kollam District may be entrusted to such duly elected office bearers.

2. About the administration and management of Sree Guhanandapuram Devaswom, disputes appear to be existing between `A' party and `B' party shown in the impugned order. Three civil suits are also pending between the parties on the same subject matter, it is submitted. They are:

(1) O.S.No.74/04 pending before the Sub Court, Kollam.

(2) O.S.No.693/03 pending before the Sub Court, Kollam.

(3) O.S.No.327/03 pending before the Sub Court, Kollam.

3. In view of the disputes between the parties and the apprehended breach of peace in the locality arising from such civil disputes, a composite order dated 19/1/04 under Secs.145 and 146 of the Cr.P.C. was passed by the Sub Divisional Magistrate and accordingly, the administration is now being conducted by a Receiver – the Deputy Tahsildar, Karunagappally.

4. When these matters came up for hearing and disposal, after discussions at the Bar, there is unanimity about the nature of directions that can be issued. The period of the office bearers elected – regarding which election there is a dispute, has now come to an end. There is no dispute that a fresh set of office bearers will have to be elected to run the Devaswom. All parties appear to be in agreement that such a new set of office bearers will have to be elected in accordance with law. The civil court is already seized of the matter. Appropriate directions can be issued to the civil court to get the election conducted properly and in accordance with law by appointing a Commissioner. The Commissioner under the directions of the court must conduct a

proper election of the office bearers of the Devaswom. He can seek directions from the court from time to time. To such duly elected office bearers of the Devaswom, the possession of the temple, its properties etc., will have to be handed over by the Sub Divisional Magistrate.

5. Accordingly, as agreed by all the contestants, following specific directions are issued:

(i) The Sub Court, Kollam, shall dispose of all the three suits referred above jointly.

(ii) The Sub Court, Kollam shall forthwith get the election of the office bearers of Sree Guhanandapuram Devaswom conducted in accordance with its bye-laws by appointing a suitable person as Commissioner for that purpose on appropriate terms.

(iii) The Commissioner shall function in accordance with the bye-laws of the Devaswom and as per the directions, if any, to be issued from time to time by the Sub Court.

(iv) The Commissioner can seek directions from the Sub Court, Kollam, wherever necessary.

(v) The elections shall be conducted, as above, by the

Commissioner under the supervision of the Court as expeditiously as possible. Necessary time limit can be prescribed by the Sub Court, Kollam.

(vi) After the election is so conducted by the Commissioner, the learned Subordinate Judge shall record the names of the office bearers so elected and thereupon, the Sub Divisional Magistrate shall hand over possession to such office bearers and thereupon further proceedings in M.C.No.5/04 shall stand terminated.

6. Above directions are issued and Crl.M.C.Nos.244 and 436/04 and W.P.(c) No.26796/06 are all allowed on the above terms as agreed by all. Communicate this order to the Subordinate Judge, Kollam.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge